

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 EPG-02 FAA-00 L-03
SS-15 NSC-05 SSO-00 NSCE-00 INRE-00 /054 W
-----231033Z 003558 /17

O R 230930Z MAY 77

FM AMEMBASSY LISBON

TO SECSTATE WASHDC IMMEDIATE 1502

INFO AMCONSUL PONTA DELGADA

/COMUSFORAZ LAJES FLD AZORES

C O N F I D E N T I A L LISBON 4079

E.O. 11652: GDS

TAGS: EAIR, PO

SUBJ: TWA ACCESS TO LAJES

SUMMARY: GOP HAS PROPOSED MODUS VIVENDI OUTSIDE OF FRAMEWORK OF BILATERAL TO PERMIT TWA ACCESS TO LAJES. AMEMBASSY RECOMMENDS THAT WASHINGTON AGENCIES GIVE SERIOUS CONSIDERATION TO WHETHER THIS PROPOSAL, OR SOME VARIANT THEREOF, WOULD SATISFY OUR REQUIREMENTS. END SUMMARY.

1. GOP APPARENTLY HAS BEEN SEEKING MODUS OPERANDI WHICH WOULD PERMIT TWA OPERATIONS AT LAJES WITHOUT REQUIRING GOP TO ALTER ITS FORMAL INTERPRETATION OF US/PORTUGUESE CIVIL AVIATION BILATERAL NOR TO OPEN LAJES TO OTHER SCHEDULED CARRIERS. IT HAS PROPOSED, DESPITE OPPOSITION FROM PORTUGUESE NATIONAL AIRLINES (TAP), SCHEME OF OPERATION WHICH WOULD BE OUTSIDE OF FRAMEWORK OF EXISTING BILATERAL AGREEMENT. SUMMARY OF DISCUSSIONS AND PROPOSAL FOLLOWS.

2. MINISTER OF TRANSPORT AND COMMUNICATIONS, RUI VILAR, CALLED ON MAY 11 TO STATE THAT GOP HAD DEVELOPED PROCEDURE WHICH WOULD ALLOW TWA TO INITIATE OPERATIONS AT LAJES. WE AGREED THAT EMBASSY AND TWA OFFICERS WOULD
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MEET WITH BRIG. ALBERTO BASTOS, DIRECTOR GENERAL OF CIVIL AVIATION, AND TAP REPRESENTATIVE TO LEARN DETAILS OF GOP PROPOSAL. MEETING TOOK PLACE EVENING OF MAY 13. BASTOS REITERATED GOP INTERPRETATION OF BILATERAL, I.E. TWA HAS NO LEGAL RIGHT TO UTILIZE LAJES BECAUSE SANTA MARIA IS THE DESIGNATED INTERNATIONAL CIVIL AIRPORT FOR THE AZORES. TAP USES LAJES UNDER

PROVISIONS OF BILATERAL PERMITTING EACH COMPANY'S FLIGHTS TO DEPART ANY POINT IN ITS NATIONAL TERRITORY FOR SPECIFIED POINTS IN OTHER COUNTRY. DESPITE THIS FACT, BASTOS SAID, GOP WOULD BE WILLING TO CONCLUDE SEPARATE AGREEMENT AUTHORIZING TWA TO UTILIZE LAJES. THE AGREEMENT WOULD, HE STRESSED, HAVE TO GIVE PRIORITY TO MILITARY OPERATIONS. IN RETURN GOP WOULD EXPECT FOLLOWING OFFSET. TWA WOULD BE EXPECTED TO MAKE ITS EXCESS CAPACITY BETWEEN LAJES AND LISBON AVAILABLE TO TAP. LATTER WOULD PAY TWA AN AMOUNT SUFFICIENT TO COVER COST OF CARRYING TAP CLIENTS LAGES/LISBON AND LISBON/LAJES. TAP WOULD CHARGE CLIENTS NORMAL FARE, THEREBY EARNING THE DIFFERENCE BETWEEN ITS COSTS AND ITS PRICE TO THE PUBLIC. IN EFFECT TWA WOULD BENEFIT BY BOTH ITS ACCESS TO LAJES AND ITS CARRIAGE ON A COST BASIS OF CABOTAGE TRAFFIC BETWEEN LISBON AND LAJES; TAP WOULD GAIN ADDITIONAL REVENUE; AND AZORES WOULD HAVE BETTER AIR SERVICE. BASTOS STATED THAT PORTUGUESE FOREIGN MINISTRY WOULD SEND EMBASSY FORMAL NOTE EMBODYING FOREGOING PROPOSAL.

3. EMBASSY OFFICER NOTED THAT OUR INTERPRETATION OF BILATERAL, CONTRARY TO THAT OF GOP, GIVES TWA RIGHT TO OPERATE IN LAJES. HE PROMISED, HOWEVER, TO SUBMIT GOP PROPOSAL TO WASHINGTON FOR CONSIDERATION. HE EXPRESSED HIS INABILITY TO COMMENT ON WHETHER US AUTHORITIES WOULD REJECT PROPOSAL COMPLETELY OR WOULD BE WILLING TO SEEK A PRACTICAL ACCOMMODATION WHILE AGREEING TO DISAGREE ON THE GENERAL PRINCIPLES INVOLVED. AS THE DISCUSSION PROGRESSED, HOWEVER, GOP OFFICIALS INDICATED CONFIDENTIAL

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CLEARLY THAT THEY HAD NOT CONSIDERED QUESTIONS INVOLVING FIFTH FREEDOM RIGHTS OUT OF LAJES AND CARGO TRANSPORT BETWEEN LAJES AND LISBON. NO MENTION WAS MADE OF FREQUENCIES. BASTOS PROMISED TO REVIEW THESE ISSUES WITH INTENTION OF INCORPORATING THEM INTO FOREIGN MINISTRY'S NOTE.

4. EMBASSY OFFICER CALLED FONOFF MAY 20 TO INQUIRE ABOUT STATUS OF NOTE. HE LEARNED THAT NOTE HAD BEEN PREPARED BUT THAT IT DID NOT DISCUSS FIFTH FREEDOM OR CARGO QUESTIONS. EMBOFF SUGGESTED THAT NOTE CONSIDER THESE ISSUES. HE EMPHASIZED THAT WASHINGTON REACTION TO GOP PROPOSAL HAD NOT YET BEEN OBTAINED BUT EXPRESSED PERSONAL BELIEF THAT PROPOSAL COULD HARDLY BE ACCEPTED IF IT DID NOT INCLUDE FIFTH FREEDOM RIGHTS AND UNLIMITED FREQUENCIES. FONOFF AGREED TO WITHHOLD DELIVERY OF NOTE PENDING FURTHER DISCUSSION.

5. COMMENT: EMBASSY RECOGNIZES THAT GOP PROPOSAL DOES NOT SATISFY OUR LEGAL REQUIREMENTS. WE BELIEVE, HOWEVER, THAT IT REPRESENTS GENUINE GOP EFFORT ACHIEVE

WORKABLE MODUS VIVENDI THAT ATTENUATES DOMESTIC POLITICAL PROBLEMS. WOULD APPRECIATE WASHINGTON AGENCIES STUDYING PROPOSAL TO DETERMINE WHETHER IT, OR SOME VARIANT THEREOF, WOULD BE ACCEPTABLE.

6. EMBASSY HAS BEEN TOLD THAT TAP IS SEEKING AUTHORIZATION TO OPERATE ADDITIONAL CHARTERS OUT OF US. WE RECOMMEND THAT USG TAKE NO ACTION ON THIS REQUEST FOR THE TIME BEING. SUCH NON-ACTION WOULD VERY LIKELY CONTRIBUTE TO OUR EFFORTS TO RESOLVE LAJES ISSUE.
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Message Attributes

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Disposition Date: 22 May 2009
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